IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his capacity as ATTORNEY GENERAL OF THE STATE OF OKLAHOMA and OKLAHOMA SECRETARY OF THE ENVIRONMENT C. MILES TOLBERT, in his capacity as the TRUSTEE FOR NATURAL RESOURCES FOR THE STATE OF OKLAHOMA,)))))
Plaintiff,))
vs.)) 05-CV-0329 JOE-SAJ
) Proposed Order for Docket) Entry No. 173))))
Defendants.))
TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC., COBB-VANTRESS, INC., GEORGE'S, INC., GEORGE'S FARMS, INC., PETERSON FARMS, INC., SIMMONS FOODS, INC., and WILLOW BROOK FOODS, INC., Third Party Plaintiffs,))))))
vs.))
City of Tahlequah, et al.,))
Third Party Defendants.))

ORDER TOLLING RUNNING OF TIME TO SERVE PROCESS UPON THIRD PARTY DEFENDANTS PENDING DISPOSITION OF DEFENDANTS' MOTION TO STAY [DOCKET NO. 125]

~4220385.wpd Page 1 of 3

This mater comes before the Court pursuant to Defendant/Third Party Plaintiffs' Motion to Toll Running of Time to Serve Process Upon Third Party Defendants Pending Disposition of Defendants' Motion to Stay [Docket No. 125] filed on December 23, 2005. Having reviewed the Motion, the Plaintiffs' Response and the file in this matter, the Court finds as follows:

- 1. Third Party Plaintiffs filed their Third Party Complaint on October 4, 2005. Pursuant to Fed. R. Civ. P. 4(m), service of process upon the Third Party Defendants must be accomplished by February 1, 2006.
- 2. On November 14, 2005, Defendants filed their Motion to Stay Proceedings (Docket No. 125) ["Motion to Stay"] requesting the Court to stay these proceedings in light of the filing of a Motion for Leave to File Bill of Complaint and Bill of Complaint by the Arkansas Attorney General in the United States Supreme Court in State of Arkansas v. State of Oklahoma, No. 220133 (Original 2005).
- It is in the interest of justice to stay the running of the time to serve the Third Party Defendants, and to therefore delay serving process on the Third Party Defendants until the Court takes up and rules upon Defendants' Motion to Stay. Delaying service on these third parties will not cause any prejudice to any party, and it will serve the interests of justice through efficient management of resources and the progress of this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Third Party Plaintiffs' Motion is sustained, and the running of the time period to serve the nonpublic Third Party Defendants under Fed. R. Civ. P. 4(m) is tolled as of this date. Tolling of this time period will continue until such time as the Court rules upon the Defendants'

Page 2 of 3 ~4220385.wpd

Motion to Stay or otherwise enters an order setting a date for service of process upon the Third Party Defendants.

So Ordered this 9th day of January, 2006.

JAMÉS O. ELLISON, Senior Judge UNITED STATES DISTRICT COURT

~4220385.wpd Page 3 of 3